IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF FEBRUARY
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE M.E.N.PATRUDU

WRIT PETITION No.26590 OF 2005

Between:

Union of India, represented by the Secretary

to the Government of India, Ministry of

Personnel, Public Grievances and Pensions,

Department of Pensions and Pensioner's

Welfare, 3rd floor, Loknayak Bhavan,

Khan Market, New Delhi, and others

..... PETITIONERS

AND

CM Mathew, S/o.C.G.Mathew, Aged about 61 years,

Occ: Asst (Retd), C/o.MC EMEE, Secunderabad,

and others.

....RESPONDENTS

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

M.E.N.PATRUDU

WRIT PETITION No.26590 OF 2005

O R D E R

(Per Sri Justice J.Chelameswar)

The unsuccessful respondents in O.A.No.662 of 2003 on the file of Central Administrative Tribunal, Hyderabad, which was allowed by an order dated 09.06.2005, are the petitioners herein.

The respondent Nos.1 to 8 herein were initially appointed as LDCs in the petitioner organization and promoted as UDCs and thereafter as Assistants. The next promotion is to the post of Office Superintendent. The recruitment to the post of Office Superintendent to which the respondents seek promotion is regulated by the Rules called as Ministry of Defence Group-C (Office Superintendent Grade I and Office Superintendent Grade II Posts) Recruitment Rules, 1977 (for short 'the Rules'). The Rules also provide for recruitment by promotion to the said post. Admittedly, the Rule as it stood prior to its amendment in the year 2004 stipulated five years of qualifying service as an Assistant in the service. In the year 1998 the petitioners issued certain proceedings relaxing and reducing the requirement of the above-mentioned qualifying service to three years. The cases of some of the Assistants were considered under the above-mentioned relaxation and they were promoted. Such promotions took place admittedly between the years 1998 to 2002. Respondent Nos.1 to 5 and 8 have retired from service subsequent to 2002, but before 2004. The respondents 1 to 8 approached the Tribunal complaining that some other Assistants were given the benefit of relaxation and their cases were considered for promotion though they did not have the requisite qualifying service of five years for promotion to the post of Office Superintendent, but their cases for such promotion have not been considered. In substance, the complaint is one of discrimination.

As a matter of fact, in the year 2004 the relevant Rule, which required five years qualifying service for promotion itself was amended reducing the length of qualifying service to three years. In the background of the above-mentioned fact, the Tribunal directed the petitioners herein to consider the cases of the applicants i.e. Respondent Nos.1 to 8 herein for promotion. The relevant portion of the order under challenge reads as follows:

> "4. In view of the above, we find it just and proper to dispose of this application by directing the respondents to consider the case of the applicants for promotion to the post of Office Superintendent within a period of 3 months from the date of communication of this order either by obtaining final approval from the UPSC or by adopting the same method as has been adopted during the year 1998-2001."

We do not find any reason warranting interference with the order under challenge, more particularly, when the Rule itself stood amended in the year 2004 reducing the length of the qualifying service to three years. The petitioners cannot challenge the correctness of the order on any principle known to law. The functioning of the petitioners in the matter of

promotions to the post of Office Superintendent as described above, has been wholly irrational and arbitrary.

The writ petition is without merit and the same is accordingly dismissed at the stage of admission itself.

JUSTICE J.CHELAMESWAR

JUSTICE M.E.N.PATRUDU

6th FEBRUARY, 2006

PGS

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

M.E.N.PATRUDU

WRIT PETITION No.26590 OF 2005

(Per Sri Justice J.Chelameswar)

6th FEBRUARY, 2006